

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

SALLY CANNON, CHRISTIAN FOUNDEUR)
and RALPH KUNES, on behalf of themselves)
and all others similarly situated,)

Plaintiffs,)

v.)

C.A. No. 05-429 (GMS)

MBNA CORPORATION, PENSION AND)
401(K) PLAN COMMITTEE OF MBNA)
CORPORATION, BRUCE L. HAMMONDS,)
KENNETH F. BOEHL, CHARLES C.)
KRULAK, TERRI C. MURPHY, JOHN W.)
SCHEFLEN, KENNETH A. VECCHIONE,)
LANCE L. WEAVER and THOMAS D. WREN,)

Defendants.)

SCHEDULING ORDER

This ____ day of July 2007, the Court having conducted a Rule 16 Scheduling Conference pursuant to Local Rule 16.2(b) on July 5, 2007, and the parties having determined after discussion that the matter cannot be resolved at this juncture by settlement, voluntary mediation or binding arbitration;

IT IS ORDERED that:

1. **Rule 26(a) Initial Disclosures:** The parties shall make their initial disclosures pursuant to Federal Rules of Civil Procedure 26(a) on or before August 31, 2007.
2. **Joinder of other Parties and Amendment of Pleadings:** All motions to join other parties and amend the pleadings shall be filed on or before October 5, 2007.

3. **Discovery**: All fact discovery in this case shall be initiated so that it will be completed on or before February 29, 2008.

a. **Discovery and Scheduling Matters**: Should counsel find they are unable to resolve a discovery or scheduling matter, the party seeking the relief shall contact chambers at (302) 573-6470 to schedule a telephone conference. Not less than forty-eight hours prior to the teleconference, the parties shall file with the Court, via electronic means (CM/ECF), a **joint, non-argumentative** letter agenda not to exceed two (2) pages outlining the issue(s) in dispute. A sample letter can be located on this Court's website at www.ded.uscourts.gov. After the parties have had three (3) discovery teleconferences, they will be required to file a joint letter showing good cause why the Court should permit a fourth discovery teleconference. Should the Court find further briefing necessary upon conclusion of the telephone conference, unless otherwise directed, the party seeking relief shall file with the Court a **TWO PAGE LETTER**, exclusive of exhibits, describing the issues in contention. The responding party shall file within five (5) days from the date of service of the opening letter an answering letter of no more than **TWO PAGES**. The party seeking relief may then file a reply letter of no more than **TWO PAGES** within three (3) days from the date of service of the answering letter.

b. **Expert Reports**: Plaintiffs' expert reports shall be served on or before March 31, 2008. Defendants' expert reports shall be served on or before April 30, 2008. Plaintiffs' reply expert reports, if any, shall be served on or before May 15, 2008. The last day for depositions of all experts shall be June 16, 2008.

4. **Confidential Information and Papers filed under Seal:** Should counsel find it will be necessary to apply to the Court for a protective order specifying terms and conditions for the disclosure of confidential information, they should confer and attempt to reach an agreement on a proposed form of order and submit it to the Court within ten (10) days from the date of this Order. When filing papers under seal, counsel should deliver to the Clerk an original and two copies of the papers.

If, after making a diligent effort, the parties are unable to agree on the contents of the joint, proposed protective order, then they shall follow the dispute resolution process outlined in paragraph 3(a).

5. **Settlement Conference:** Pursuant to 28 U.S.C. § 636, this matter is referred to a United States Magistrate for the purpose of exploring the possibility of settlement. If the parties agree that the possibility of settlement may be enhanced by such referral, the parties shall contact the Magistrate Judge to schedule a settlement conference with counsel and clients.

6. **Summary Judgment Motions:** All summary judgment motions and an opening brief and affidavits, if any, in support of the motion shall be served and filed on or before July 15, 2008; answering brief and affidavits, if any, in opposition to the motion on or before August 15, 2008; reply brief on or before September 5, 2008.

7. **Extensions of Time.** Any request for extensions of time as set forth in this Scheduling Order **must** be accompanied by an explanation or the request will be denied.

8. **Applications by Motion:** Except as provided in this Scheduling Order or for matters relating to scheduling, any application to the Court shall be by written motion filed,

via electronic means (CM/ECF). Unless otherwise requested by the Court, counsel shall **not** deliver copies of papers or correspondence to Chambers. Any non-dispositive motion should contain the statement required by Local Rule 7.1.1.

9. **Oral Argument.** If the Court believes that oral argument is necessary, the Court will schedule a hearing pursuant to Local Rule 7.1.4.

10. **Pretrial Conference.** On December 23, 2008, beginning at 9:30 a.m., the Court will hold a Pretrial Conference in Chambers with counsel. Unless otherwise ordered by the Court, the parties should assume that filing the Joint Pretrial Order satisfies the pretrial disclosure requirement in Federal Rule of Civil Procedure 26(a)(3). A sample form of Pretrial Order can be located on this Court's website at www.ded.uscourts.gov. Thirty (30) days before the Joint Proposed Pretrial Order is due, plaintiffs shall forward to defendants a draft of the pretrial order containing the information plaintiffs propose to include in the draft. Thirty (30) days before the Joint Proposed Pretrial Order is due, both parties shall exchange exhibit lists, witness lists, deposition designations, and, for issues on which a party bears the burden of proof, issues of fact and law to be litigated. Fifteen (15) days before the Joint Proposed Pretrial Order is due, defendants shall, in turn, provide to plaintiffs any comments on plaintiffs' draft pretrial order, as well as the information defendants propose to include in the proposed pretrial order. Fifteen (15) days before the Joint Proposed Pretrial Order is due, both parties shall exchange objections to exhibit lists, objections to deposition designations, and deposition counter-designations. The parties shall file with the Court the Joint Proposed Final Pretrial Order with the information required by the form of Final Pretrial Order (which

can be located on this Court's website at www.ded.uscourts.gov) on or before December 1, 2008.

11. **Motions in Limine**: No party shall file more than five (5) motions *in limine*. Opening briefs on motions *in limine* shall be served and filed on or before November 7, 2008. Answering briefs shall be served and filed on or before November 14, 2008. Reply briefs shall be served and filed on or before November 21, 2008. Opening and answering briefs shall not exceed five (5) pages and reply briefs shall not exceed three (3) pages.

12. **Trial**: This matter is scheduled for a seven (7) day bench trial beginning at 9:00 a.m. on January 12, 2009.

13. **Scheduling**: The parties shall contact Chambers at (302) 573-6470, only in situations where scheduling relief is sought and only then when ALL participating counsel is on the line for purposes of selecting a new date.

UNITED STATES DISTRICT JUDGE